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## 2001 Decisions

## Opinions of the United States Court of Appeals for the Third Circuit

7-5-2001

## Pryer v. Slavic

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UNREPORTED NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

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No. 00-3297

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RAYMOND T. PRYER

v.

C.O. 3 SLAVIC; C.O. 1 COOK; C.O. 1 D. BURSEY,

Appellants

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Appeal from the United States District Court  
for the Western District of Pennsylvania  
(D.C. Civ. No. 92-1461)  
District Judge: Honorable Gary L. Lancaster

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Argued  
October 26, 2000  
Before: MANSMANN, ALITO, and FUENTES, Circuit Judges.

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ORDER AMENDING OPINION

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The opinion filed on May 30, 2001 is amended as follows:  
Page 18, line 2 delete the word "effectively";  
Page 18, insert the following paragraphs before the paragraph

beginning

"Rather than reversing . . . .

our The majority seeks to justify its departure from

established standard of review, and its consequent substitution of its discretion for that of the trial judge, by invoking two purported exceptions: First, the majority asserts that no deference is due "where a trial court fails to explain its grounds for exercising discretion, and its reasons for doing so are not otherwise apparent from the record". Supra at 7 n.4. However, the District Court's reasons for limiting the second trial to damages are made abundantly clear in its opinion: As the Court explained, "a new trial is appropriate on the issue of damages because the court failed to properly instruct the jury on damages" (by, inter alia, giving an unwarranted nominal damages instruction), and because the resulting nominal

Court's

Page 19, line 2     delete "finding an abuse of discretion by" and  
substitute  
"overriding"

IT IS HEREBY ORDERED

Circuit Judge

Dated: June 5, 2001